

ASSEMBLY, No. 2482

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywomen Vainieri Huttie, Timberlake, Mosquera and McKnight

SYNOPSIS

Requires counseling for certain domestic violence offenders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/1/2021)

1 AN ACT concerning domestic violence and amending P.L.1991,
2 c.261.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 11 of P.L.1991, c.261 (C.2C:25-27) is amended to
8 read as follows:

9 11. a. When a defendant is found guilty of a crime or offense
10 involving domestic violence and a condition of sentence restricts
11 the defendant's ability to have contact with the victim, the victim's
12 friends, co-workers, or relatives, or an animal owned, possessed,
13 leased, kept, or held by either party or a minor child residing in the
14 household, that condition shall be recorded in an order of the court
15 and a written copy of that order shall be provided to the victim by
16 the clerk of the court or other person designated by the court. In
17 addition to restricting a defendant's ability to have contact with the
18 victim, the victim's friends, co-workers, or relatives, or an animal
19 owned, possessed, leased, kept, or held by either party or a minor
20 child residing in the household, the court may require the defendant
21 to receive professional counseling from either a private source or a
22 source appointed by the court, **[and if]** but in either case conducted
23 by a person who has demonstrated expertise in individual or group
24 domestic violence counseling. If the crime or offense involving
25 domestic violence was a sexually violent offense as defined in this
26 section, the person conducting the counseling shall additionally
27 have demonstrated expertise in individual or group sexual violence
28 counseling. In any case where the court either suspends the
29 imposition of a sentence or sentences the defendant to be placed on
30 probation, in addition to any other provisions required by law or
31 conditions ordered by the court, the court shall require the
32 defendant to participate in, and complete, a program of professional
33 counseling as a condition of the sentence. If the court [so] orders
34 professional counseling, the court shall require the defendant to
35 provide documentation of attendance at the professional counseling.
36 In any case where the court order contains a requirement that the
37 defendant receive professional counseling, no application by the
38 defendant to dissolve the restraining order shall be granted unless,
39 in addition to any other provisions required by law or conditions
40 ordered by the court, the defendant has completed all required
41 attendance at such counseling.

42 As used in this section, "sexually violent offense" means:
43 aggravated sexual assault; sexual assault; aggravated criminal
44 sexual contact; kidnapping pursuant to subparagraph (b) of
45 paragraph (2) of subsection c. of N.J.S.2C:13-1; criminal sexual

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 contact; felony murder pursuant to paragraph (3) of subsection a. of
2 N.J.S.2C:11-3 if the underlying crime is sexual assault; an attempt
3 to commit any of these enumerated offenses; or a criminal offense
4 with substantially the same elements as any offense enumerated
5 above, entered or imposed under the laws of the United States, this
6 State or another state; or any offense for which the court makes a
7 specific finding on the record that, based on the circumstances of
8 the case, the person's offense should be considered a sexually
9 violent offense.

10 b. In addition the court may enter an order directing the
11 possession of an animal owned, possessed, leased, kept, or held by
12 either party or a minor child residing in the household. Where a
13 person has abused or threatened to abuse such animal, there shall be
14 a presumption that possession of the animal shall be awarded to the
15 non-abusive party.

16 c. (1) When a defendant is found guilty of a crime or offense
17 involving domestic violence, the court shall inform the defendant
18 that the defendant is prohibited from purchasing, owning,
19 possessing, or controlling a firearm pursuant to section 6 of
20 P.L.1979, c.179 (C.2C:39-7) and from receiving or retaining a
21 firearms purchaser identification card or permit to purchase a
22 handgun pursuant to N.J.S.2C:58-3. The court shall order the
23 defendant to arrange for the immediate surrender to a law
24 enforcement officer of any firearm that has not already been seized
25 or surrendered and any firearms purchaser identification card or
26 permit to purchase a handgun possessed by the defendant. No later
27 than five business days after the order is entered, however, the
28 defendant may arrange to sell any surrendered firearm to a licensed
29 retail dealer of firearms who shall be authorized to take possession
30 of that purchased firearm from the law enforcement agency to
31 which it was surrendered no later than 10 business days after the
32 order is entered. Any card or permit issued to the defendant shall be
33 deemed immediately revoked. The court shall establish a process
34 for notifying the appropriate authorities of the conviction requiring
35 the revocation of the card or permit. A law enforcement officer
36 accepting a surrendered firearm shall provide the defendant with a
37 receipt listing the date of surrender, the name of the defendant, and
38 any item that has been surrendered, including the serial number,
39 manufacturer, and model of the surrendered firearm. The defendant
40 shall provide a copy of this receipt to the prosecutor within 48 hours
41 of service of the order, and shall attest under penalty that any
42 firearms owned or possessed at the time of the order have been
43 transferred in accordance with this section and that the defendant
44 currently does not possess any firearms. The defendant alternatively
45 may attest under penalty that he did not own or possess a firearm at
46 the time of the order and currently does not possess a firearm. If
47 the court, upon motion of the prosecutor, finds probable cause that
48 the defendant has failed to surrender any firearm, card, or permit,

1 the court may order a search for and removal of these items at any
2 location where the judge has reasonable cause to believe these items
3 are located. The judge shall state with specificity the reasons for
4 and the scope of the search and seizure authorized by the order.

5 (2) A law enforcement officer who receives a firearm that is
6 surrendered, but not purchased and taken possession of by a
7 licensed retail dealer of firearms within 10 business days of when
8 the order is entered pursuant to paragraph (1) of this subsection,
9 may dispose of the surrendered firearm in accordance with the
10 provisions of N.J.S.2C:64-6. A firearm purchased by a licensed
11 retail dealer from a defendant shall become part of the inventory of
12 the dealer.

13 (cf: P.L.2016, c.91, s.1)

14
15 2. This act shall take effect immediately and shall apply to
16 offenses occurring on or after the effective date of this act.

17 18 19 STATEMENT

20
21 This bill would require that defendants convicted of an offense
22 involving domestic violence who are placed on probation or have
23 their sentence suspended shall attend domestic violence counseling.
24 Under current law a court may, in its discretion, require as part of a
25 sentence, that the convicted defendant receive professional
26 counseling from either a private source or a source appointed by the
27 court.

28 Additionally, in all cases of court-ordered domestic violence
29 counseling under section 11 of P.L.1991, c.261 (C.2C:25-27),
30 whether or not mandated per the bill's provisions, the counselor
31 would be required to have demonstrated expertise in individual or
32 group domestic violence counseling. If the crime or offense
33 involving domestic violence was a sexually violent offense, the
34 person conducting the counseling would additionally have to have
35 demonstrated expertise in individual or group sexual violence
36 counseling. For the purposes of the bill, a "sexually violent
37 offense" means: aggravated sexual assault; sexual assault;
38 aggravated criminal sexual contact; kidnapping pursuant to
39 subparagraph (b) of paragraph (2) of subsection c. of N.J.S.2C:13-1;
40 criminal sexual contact; felony murder pursuant to paragraph (3) of
41 subsection a. of N.J.S.2C:11-3 if the underlying crime is sexual
42 assault; an attempt to commit any of these enumerated offenses; or
43 a criminal offense with substantially the same elements as any
44 offense enumerated above, entered or imposed under the laws of the
45 United States, this State or another state; or any offense for which
46 the court makes a specific finding on the record that, based on the
47 circumstances of the case, the person's offense should be considered
48 a sexually violent offense.